

114TH CONGRESS  
2D SESSION

# S. 2736

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## AN ACT

To improve access to durable medical equipment for Medicare beneficiaries under the Medicare program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Patient Access to Du-  
3 rable Medical Equipment Act of 2016”.

4 **SEC. 2. EXTENSION OF THE TRANSITION TO NEW PAYMENT**  
5 **RATES FOR DURABLE MEDICAL EQUIPMENT**  
6 **UNDER THE MEDICARE PROGRAM.**

7 The Secretary of Health and Human Services shall  
8 extend the transition period described in clause (i) of sec-  
9 tion 414.210(g)(9) of title 42, Code of Federal Regula-  
10 tions, from June 30, 2016, to June 30, 2017 (with the  
11 full implementation described in clause (ii) of such section  
12 applying to items and services furnished with dates of  
13 service on or after July 1, 2017).

14 **SEC. 3. FLOOR ON BID CEILING FOR COMPETITIVE ACQUI-**  
15 **SITION FOR DURABLE MEDICAL EQUIPMENT**  
16 **UNDER THE MEDICARE PROGRAM.**

17 Section 1847(b)(5) of the Social Security Act (42  
18 U.S.C. 1395w-3(b)(5)) is amended—

19 (1) in subparagraph (A)—

20 (A) by inserting “, subject to subpara-  
21 graph (E),” after “subsection (a)(2)”; and

22 (B) by inserting “, subject to subpara-  
23 graph (E),” after “Based on such bids”; and

24 (2) by adding at the end the following new sub-  
25 paragraph:

1           “(E) FLOOR ON BID CEILING FOR DURA-  
2           BLE MEDICAL EQUIPMENT.—

3           “(i) IN GENERAL.—The ceiling for a  
4           bid submitted for applicable covered items  
5           may not be less than the fee schedule  
6           amount that would otherwise be deter-  
7           mined under section 1834(a), section  
8           1834(h), or section 1842(s) for such items  
9           furnished on July 1, 2016 (determined as  
10          if section 2 of the Patient Access to Dura-  
11          ble Medical Equipment Act of 2016 had  
12          not been enacted).

13          “(ii) APPLICABLE COVERED ITEMS  
14          DEFINED.—For purposes of this subpara-  
15          graph, the term ‘applicable covered items’  
16          means competitively priced items and serv-  
17          ices described in subsection (a)(2) that are  
18          furnished with respect to rounds of com-  
19          petition that begin on or after January 1,  
20          2017.”.

21 **SEC. 4. REQUIREMENTS IN DETERMINING ADJUSTMENTS**  
22 **USING INFORMATION FROM COMPETITIVE**  
23 **BIDDING PROGRAMS.**

24          (a) IN GENERAL.—Section 1834(a)(1)(G) of the So-  
25          cial Security Act (42 U.S.C. 1395m(a)(1)(G)) is amended

1 by adding at the end the following new sentence: “In the  
2 case of items and services furnished on or after January  
3 1, 2019, in making any adjustments under clause (ii) or  
4 (iii) of subparagraph (F), under subsection (h)(1)(H)(ii),  
5 or under section 1842(s)(3)(B), the Secretary shall—

6 “(i) solicit and take into account  
7 stakeholder input; and

8 “(ii) take into account the highest  
9 amount bid by a winning supplier in a  
10 competitive acquisition area and a com-  
11 parison of each of the following with re-  
12 spect to non-competitive acquisition areas  
13 and competitive acquisition areas:

14 “(I) The average travel distance  
15 and cost associated with furnishing  
16 items and services in the area.

17 “(II) Any barriers to access for  
18 items and services in the area.

19 “(III) The average delivery time  
20 in furnishing items and services in the  
21 area.

22 “(IV) The average volume of  
23 items and services furnished by sup-  
24 pliers in the area.

1                                   “(V) The number of suppliers in  
2                                   the area.”.

3           (b) CONFORMING AMENDMENTS.—(1) Section  
4 1834(h)(1)(H)(ii) of the Social Security Act (42 U.S.C.  
5 1395m(h)(1)(H)(ii)) is amended by striking “the Sec-  
6 retary” and inserting “subject to subsection (a)(1)(G), the  
7 Secretary”.

8           (2) Section 1842(s)(3)(B) of the Social Security Act  
9 (42 U.S.C. 1395m(s)(3)(B)) is amended by striking “the  
10 Secretary” and inserting “subject to section  
11 1834(a)(1)(G), the Secretary”.

12 **SEC. 5. REPORTS ON THE RESULTS OF THE MONITORING**  
13 **OF ACCESS OF MEDICARE BENEFICIARIES TO**  
14 **DURABLE MEDICAL EQUIPMENT AND OF**  
15 **HEALTH OUTCOMES.**

16           Not later than October 1, 2016, January 1, 2017,  
17 April 1, 2017, and July 1, 2017, the Secretary of Health  
18 and Human Services shall publish on the Internet website  
19 of the Centers for Medicare & Medicaid Services the re-  
20 sults of the monitoring of access of Medicare beneficiaries  
21 to durable medical equipment and of health outcomes, as  
22 described on page 66228 in the final rule published by  
23 the Center for Medicare & Medicaid Services on November  
24 6, 2014, and entitled “Medicare Program; End-Stage  
25 Renal Disease Prospective Payment System, Quality In-

1 centive Program, and Durable Medical Equipment, Pros-  
2 thetics, Orthotics, and Supplies” (79 Fed. Reg. 66120–  
3 66265).

4 **SEC. 6. REVISION OF EFFECTIVE DATE OF PROVISION LIM-**  
5 **ITING FEDERAL MEDICAID REIMBURSEMENT**  
6 **TO STATES FOR DURABLE MEDICAL EQUIP-**  
7 **MENT (DME) TO MEDICARE PAYMENT RATES.**

8 (a) **IN GENERAL.**—Section 1903(i)(27) of the Social  
9 Security Act (42 U.S.C. 1396b(i)(27)) is amended by  
10 striking “January 1, 2019” and inserting “October 1,  
11 2018”.

12 (b) **EFFECTIVE DATE.**—The amendment made by  
13 subsection (a) shall take effect as if included in the enact-  
14 ment of section 503 of division O of Public Law 114–113.

Passed the Senate June 21, 2016.

Attest:

*Secretary.*



114<sup>TH</sup> CONGRESS  
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